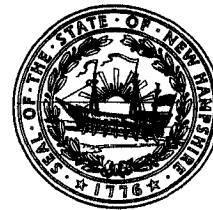




The State of New Hampshire  
*Department of Environmental Services*



Michael P. Nolin  
Commissioner

June 5, 2006

Mark Ellsworth  
160 Rowell Road West  
Brentwood, NH 03833

Re: Docket No. AF 06-014 - Administrative Fine by Consent Agreement

Dear Mr. Ellsworth:

Enclosed for your records is a copy of the fully executed and accepted Administrative Fine by Consent Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

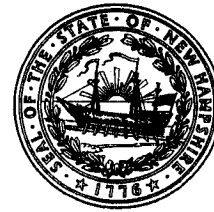
**COPY**

Michael P. Nolin,  
Legal Assistant

cc: Michael J. Walls, DES Assistant Commissioner  
Harry T. Stewart, P.E., Director, Water Division  
Gretchen R. Hamel, Administrator, DES Legal Unit  
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit  
Jennifer J. Patterson, NH DOJ  
Alexis Rastorguyeff, DES WD/WWEB  
DES Public Information Officer



The State of New Hampshire  
**Department of Environmental Services**



**Michael P. Nolin**  
Commissioner

Mark Ellsworth  
160 Rowell Road West  
Brentwood, NH 03833

Re: Septage Hauler's Permit #70  
Failure to Renew in 2005

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 06-014**

**I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Water Division, and Mark Ellsworth, pursuant to RSA 485-A:22 and Env-C 603. This Administrative Fine by Consent is effective upon signature by all parties.

**II. PARTIES**

1. The Department of Environmental Services, Water Division ("the Division") is a duly-constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive, Concord, New Hampshire.
2. Mark Ellsworth is an individual having a mailing address of 160 Rowell Road West, Brentwood, NH 03833.

**III. BACKGROUND**

1. Pursuant to RSA 485-A:4, XVI-a, DES regulates the removal, transportation, and disposal of septage through a permit system. Pursuant to RSA 485-A:6, X-a, the Commissioner of DES has adopted Env-Ws 1600 to implement this program.
2. Pursuant to RSA 485-A:22, V, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations relating to the septage management program. Pursuant to this section, the Commissioner has adopted Env-C 603.06 to establish the schedule of fines for such violations.
3. Mr. Ellsworth is the holder of septage hauler Transporter Permit No. 70 (the "Permit").

**IV. ALLEGATIONS**

1. On January 3, 2003, the Division issued a renewal of the Permit to Mr. Ellsworth, valid until January 31, 2005.

2. On November 1, 2004, the Division issued a letter to Mr. Ellsworth reminding him that the Permit would expire on January 31, 2005.
3. On February 7, 2005, the Division issued a letter to Mr. Ellsworth informing him that the Permit expired on January 31, 2005, and that he could be fined for hauling septage without a permit if he continued to haul septage in New Hampshire.
4. On January 13, 2006, Mr. Ellsworth appeared at the DES main office and renewed his Permit. He asserted at that time that he had submitted his renewal application and fee in December, 2005. He asserted that his check was never cashed and he never received his permit in the mail.
5. Mark Ellsworth agrees that he did engage in the business of septage hauling during the 2005 calendar year.

#### **V. ADMINISTRATIVE FINES, PAYMENT, WAIVER OF HEARING**

1. For engaging in hauling septage without a valid permit as required by Env-Ws 1604.01(a), Env-C 603.06(c) specifies a fine of \$1,000 per load. The Division proposes a fine in the amount of \$1,000 for this violation.
2. Mark Ellsworth agrees to pay the \$1,000 administrative fine as follows: Payment in the amount of \$400 shall be due upon execution of this Agreement by Mark Ellsworth. Mark Ellsworth agrees to pay the remaining \$600 in six installments, in the amount of \$100 each due on or before the last day of each month, starting with the calendar month following the month of execution of this Agreement.
3. Payment under this Agreement shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:  
  
DES Legal Unit  
Attn: Michael Sclafani, Legal Assistant  
P.O. Box 95  
Concord, NH 03302-0095
4. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.
5. By executing this Administrative Fine by Consent, Mr. Ellsworth waives his right to a hearing on or any appeal of the administrative fines identified in this Agreement and agrees that this Administrative Fine by Consent may be entered into and enforced by a court of competent jurisdiction.
6. The effective date of this Administrative Fine by Consent will be the date on which it is signed

by Mark Ellsworth, the Director of the Water Division, and the Commissioner of the DES.

7. No failure by the DES to enforce any provision of this Administrative Fine by Consent after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this agreement on any further breach or default.

WHEREFORE, the parties voluntarily accept the terms of this Agreement.

**COPY**



Mark Ellsworth

Septage Hauler Permit #70 Holder

5-29-06

Date

Department of Environmental Services

**COPY**



Harry T. Stewart, P.E., Director

Water Division

5/31/06

Date

**COPY**



Michael P. Nolin, Commissioner

06 01 06

Date

cc: Gretchen Hamel, DES Legal Unit Administrator

cc: Public Information Officer, DES PIP Office

Alexis Rastorguyeff, DES/WWEB